**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**DIVISION BENCH**

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**CORAM:** HON'BLE SHRI H.L. DATTU, C.J. &
HON'BLE SHRI V.K. SHRIVASTAVA, J.

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**Writ Petition No.1306 of 2001**

**PETITIONER** Dharam Prakash Agrawal, Son of Shri Ghanshyamdas Agrawal, Aged adult, resident of Pendra Chetan Chowk, District Bilaspur, Chhattisgarh

**VERSUS**

**RESPONDENTS**

1. State of Chhattisgarh, Ministry of Public Works Department, Through its Secretary, Secretariat, Raipur, (Chhattisgarh)
2. Chief Engineer, Public Works Department, Raipur Chhattisgarh
3. Superintending Engineer, Public Works Department, Circle Bilaspur/Pendra, Bilaspur, Chhattisgarh
4. Executive Engineer, Public Works Department, Pendra Division, Pendra Road, District Bilaspur, Chhattisgarh
5. Accounts Officer, Divisional Office, Public Works Department, Bilaspur, Chhattisgarh

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Present: Shri V.R.Tiwari, counsel for the petitioner.
Shri N.K.Agrawal, Dy. A.G. for the State.

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**ORAL ORDER**

**(Passed on 16th March, 2007)**

The following oral order of the Court was passed by **H.L. Dattu, CJ.**

The petitioner is a contractor. He has executed certain works awarded to him by the respondents.

(2) Based on the Technical Auditor's report, the respondents had issued a demand notice dated 22-9-2000, inter alia, directing the

petitioner to refund a sum of Rs.1,97,411/-. Even before the petitioner could approach this Court questioning the aforesaid notice, respondents have already recovered the said amount from the petitioner.

(3) Shri V.R.Tiwari, learned counsel appearing for the petitioner would submit that under one of the clauses in the agreement, before recoveries are made from the contractor, the contractor should be issued a show cause notice and also the same should be done within a particular time frame. Since the respondents had not issued show cause notice and had recovered the amount before the time prescribed under the agreement, the demand notice requires to be quashed.

(4) *Per contra*, Shri N.K.Agrawal, learned Deputy Advocate General would submit that since the respondents have already recovered the amount mentioned in the demand notice, a post decisional hearing may be given to the petitioner. Submission of learned Deputy Advocate General is very fair and requires to be accepted. Now, the respondents have already recovered a sum of Rs.1,97,411/- pursuant to the demand notice issued by them, the only relief that can be granted to the petitioner is to provide him a post decisional hearing by permitting him to file his objections and participate in the enquiry that the respondents may hold against the petitioner. Ordered accordingly.

(5) The petitioner is at liberty to take up all such contentions which are available to him including the contentions raised in this writ petition before the respondents – authorities. Accordingly, the writ petition is disposed of.

Sd/-
V.K. Shrivastava
Judge

Sd/-
Chief Justice